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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 ECLIPSE IP LLC

14 Plaintiffs,

15 vs.

16 PROVIDE COMMERCE, INC.,

17 Defendant.

Case No. **'12CV2184 CAB WMC**

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint Filed: N/A

Trial Date: N/A

18 **COMPLAINT FOR PATENT INFRINGEMENT**

19 Plaintiff Eclipse IP LLC (“Eclipse”), by counsel, complains of defendant Provide Commerce,
20 Inc. (“Provide Commerce”) as follows:

21 **NATURE OF LAWSUIT**

22 1. This is a suit for patent infringement arising under the patent laws of the United States,
23 Title 35 of the United States Code § 1 *et seq.* This Court has exclusive jurisdiction over the subject
24 matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

25 **PARTIES AND PATENTS**

26 2. Eclipse is a company organized and existing under the laws of Florida and having a
27 principal place of business address at 115 NW 17th Street, Delray Beach, Florida 33444.

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1 3. Eclipse owns all right, title, and interest in and has standing to sue for infringement of
2 United States Patent No. 7,479,899 (“the ‘899 patent”), entitled “Notification Systems and Methods
3 Enabling a Response to Cause Connection Between a Notified PCD and a Delivery or Pickup”
4 (Exhibit A); United States Patent No. 7,876,239 (“the ‘239 patent”), entitled “Secure Notification
5 Messaging Systems and Methods Using Authentication Indicia” (Exhibit B); United States Patent No.
6 7,319,414 (“the ‘414 patent”), entitled “Secure Notification Messaging Systems and Methods Using
7 Authentication Indicia” (Exhibit C); United States Patent No. 7,482,952 (“the ‘952 patent”), entitled
8 “Response Systems and Methods for Notification Systems for Modifying Future Notifications”
9 (Exhibit D); and United States Patent No. 7,119,716 (“the ‘716 patent”), entitled “Response Systems
10 and Methods for Notification Systems for Modifying Future Notifications” (Exhibit E) (collectively,
11 “the Eclipse Patents”).

12 4. On information and belief, Provide Commerce is a corporation incorporated in
13 Delaware and has its principal place of business at 4840 Eastgate Mall, San Diego, CA 92121.

14 5. On information and belief, Provide Commerce does regular business in this judicial
15 district and has committed acts of infringement in this judicial district.

16 **JURISDICTION AND VENUE**

17 6. This Court has personal jurisdiction over Provide Commerce under Cal. Civ. Proc.
18 Code § 410.10 because Provide Commerce is transacting business within the State of California and
19 this judicial district; has an agent for service of process in this judicial district; is operating and/or
20 supporting products or services that fall within one or more claims of Eclipse’s patents in this judicial
21 district; and has committed the tort of patent infringement in this judicial district.

22 7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) and 1400(b).

23 **DEFENDANT’S ACTS OF PATENT INFRINGEMENT**

24 8. Provide Commerce has infringed one or more claims of the ‘899 patent through, among
25 other activities: the use of its electronic order, purchase, and product return status messaging and
26 information systems that include URL links; and providing the users or recipients of electronic
27 messages with authentication modifications to future electronic messages, and additional information
28 associated with the status of a purchase or return.

1 9. Provide Commerce has actively induced and/or contributed to the infringement by
2 others of one or more claims of the '899 patent through, among other activities: by continuing to
3 provide to customers the use of its electronic order, purchase, and product return status messaging and
4 information systems that include URL links, after having received notice of its infringement of the
5 '899 patent; and by continuing to provide customers electronic messages with authentication,
6 modifications to future electronic messages, and additional information associated with the status of a
7 purchase or return, after having received notice of its infringement of the '899 patent.

8 10. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce's
9 infringement of the '899 patent as set forth herein has been and is willful, deliberate and in disregard
10 of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the
11 amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

12 11. Provide Commerce has infringed one or more claims of the '239 patent through, among
13 other activities: the use of its electronic order, purchase, and product return status messaging and
14 information systems that include URL links; and providing the users or recipients of electronic
15 messages with authentication modifications to future electronic messages, and additional information
16 associated with the status of a purchase or return.

17 12. Provide Commerce has actively induced and/or contributed to the infringement by
18 others of one or more claims of the '239 patent through, among other activities: by continuing to
19 provide to customers the use of its electronic order, purchase, and product return status messaging and
20 information systems that include URL links, after having received notice of its infringement of the
21 '239 patent; and by continuing to provide customers electronic messages with authentication,
22 modifications to future electronic messages, and additional information associated with the status of a
23 purchase or return, after having received notice of its infringement of the '239 patent.

24 13. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce's
25 infringement of the '239 patent as set forth herein has been and is willful, deliberate and in disregard
26 of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the
27 amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

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1 14. Provide Commerce has infringed one or more claims of the '414 patent through, among
2 other activities: the use of its electronic order, purchase, and product return status messaging and
3 information systems that include URL links; and providing the users or recipients of electronic
4 messages with authentication modifications to future electronic messages, and additional information
5 associated with the status of a purchase or return.

6 15. Provide Commerce has actively induced and/or contributed to the infringement by
7 others of one or more claims of the '414 patent through, among other activities: by continuing to
8 provide to customers the use of its electronic order, purchase, and product return status messaging and
9 information systems that include URL links, after having received notice of its infringement of the
10 '414 patent; and by continuing to provide customers electronic messages with authentication,
11 modifications to future electronic messages, and additional information associated with the status of a
12 purchase or return, after having received notice of its infringement of the '414 patent.

13 16. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce's
14 infringement of the '414 patent as set forth herein has been and is willful, deliberate and in disregard
15 of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the
16 amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

17 17. Provide Commerce has infringed one or more claims of the '952 patent through, among
18 other activities: the use of its electronic order, purchase, and product return status messaging and
19 information systems that include URL links; and providing the users or recipients of electronic
20 messages with authentication modifications to future electronic messages, and additional information
21 associated with the status of a purchase or return.

22 18. Provide Commerce has actively induced and/or contributed to the infringement by
23 others of one or more claims of the '952 patent through, among other activities: by continuing to
24 provide to customers the use of its electronic order, purchase, and product return status messaging and
25 information systems that include URL links, after having received notice of its infringement of the
26 '952 patent; and by continuing to provide customers electronic messages with authentication,
27 modifications to future electronic messages, and additional information associated with the status of a
28 purchase or return, after having received notice of its infringement of the '952 patent.

1 19. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce's
2 infringement of the '952 patent as set forth herein has been and is willful, deliberate and in disregard
3 of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the
4 amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

5 20. Provide Commerce has infringed one or more claims of the '716 patent through, among
6 other activities: the use of its electronic order, purchase, and product return status messaging and
7 information systems that include URL links; and providing the users or recipients of electronic
8 messages with authentication modifications to future electronic messages, and additional information
9 associated with the status of a purchase or return.

10 21. Provide Commerce has actively induced and/or contributed to the infringement by
11 others of one or more claims of the '716 patent through, among other activities: by continuing to
12 provide to customers the use of its electronic order, purchase, and product return status messaging and
13 information systems that include URL links, after having received notice of its infringement of the
14 '716 patent; and by continuing to provide customers electronic messages with authentication,
15 modifications to future electronic messages, and additional information associated with the status of a
16 purchase or return, after having received notice of its infringement of the '716 patent.

17 22. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce's
18 infringement of the '716 patent as set forth herein has been and is willful, deliberate and in disregard
19 of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the
20 amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

21 **CLAIMS FOR RELIEF**

22 **COUNT I**

23 **(Patent Infringement of U.S. Patent No. 7,479,899**

24 **Under 35 U.S.C. § 271, et seq.)**

25 23. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1
26 through 22 above and incorporates them by reference.

27 24. On January 20, 2009, United States Patent No. 7,479,899, entitled, "Notification
28 Systems and Methods Enabling a Response to Cause Connection Between a Notified PCD and a

1 Delivery or Pickup Representative” was duly and legally issued by the United States Patent and
2 Trademark Office. Eclipse IP is the owner of the entire right, title and interest in and to the ‘899
3 patent. A true and correct copy of the ‘899 patent is attached as Exhibit A to this complaint.

4 25. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce: (1)
5 has infringed and continues to infringe claims of the ‘899 patent, literally and/or under the doctrine of
6 equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or
7 infringement under the doctrine of equivalents of claims of the ‘899 patent, and/or has actively
8 induced and continues to actively induce others to infringe claims of the ‘899 patent, literally and/or
9 under the doctrine of equivalents, in this district and elsewhere in the United States.

10 **COUNT II**

11 **(Patent Infringement of U.S. Patent No. 7,876,239**

12 **Under 35 U.S.C. § 271, *et seq.*)**

13 26. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1
14 through 25 above and incorporates them by reference.

15 27. On January 25, 2011, United States Patent No. 7,876,239, entitled, “Secure
16 Notification Messaging System and Methods Using Authentication Indicia” was duly and legally
17 issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right,
18 title and interest in and to the ‘239 patent. A true and correct copy of the ‘239 patent is attached as
19 Exhibit B to this complaint.

20 28. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce: (1)
21 has infringed and continues to infringe claims of the ‘239 patent, literally and/or under the doctrine of
22 equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or
23 infringement under the doctrine of equivalents of claims of the ‘239 patent, and/or has actively
24 induced and continues to actively induce others to infringe claims of the ‘239 patent, literally and/or
25 under the doctrine of equivalents, in this district and elsewhere in the United States.

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COUNT III

(Patent Infringement of U.S. Patent No. 7,319,414

Under 35 U.S.C. § 271, *et seq.*)

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4 29. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1
5 through 28 above and incorporates them by reference.

6 30. On January 15, 2008, United States Patent No. 7,319,414, entitled, “Secure
7 Notification Messaging System and Methods Using Authentication Indicia” was duly and legally
8 issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right,
9 title and interest in and to the ‘414 patent. A true and correct copy of the ‘414 patent is attached as
10 Exhibit C to this complaint.

11 31. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce: (1)
12 has infringed and continues to infringe claims of the ‘414 patent, literally and/or under the doctrine of
13 equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or
14 infringement under the doctrine of equivalents of claims of the ‘414 patent, and/or has actively
15 induced and continues to actively induce others to infringe claims of the ‘414 patent, literally and/or
16 under the doctrine of equivalents, in this district and elsewhere in the United States.

17 **COUNT IV**

18 **(Patent Infringement of U.S. Patent No. 7,482,952**

19 **Under 35 U.S.C. § 271, *et seq.*)**

20 32. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1
21 through 31 above and incorporates them by reference.

22 33. On January 27, 2009, United States Patent No. 7,482,952, entitled, “Response Systems
23 and Methods for Notification Systems for Modifying Future Notifications” was duly and legally
24 issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right,
25 title and interest in and to the ‘952 patent. A true and correct copy of the ‘952 patent is attached as
26 Exhibit D to this complaint.

27 34. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce: (1)
28 has infringed and continues to infringe claims of the ‘952 patent, literally and/or under the doctrine of

1 equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or
2 infringement under the doctrine of equivalents of claims of the '952 patent, and/or has actively
3 induced and continues to actively induce others to infringe claims of the '952 patent, literally and/or
4 under the doctrine of equivalents, in this district and elsewhere in the United States.

5 **COUNT V**

6 **(Patent Infringement of U.S. Patent No. 7,119,716**

7 **Under 35 U.S.C. § 271, et seq.)**

8 35. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1
9 through 34 above and incorporates them by reference.

10 36. On October 10, 2006, United States Patent No. 7,119,716, entitled, "Response Systems
11 and Methods for Notification Systems for Modifying Future Notifications" was duly and legally
12 issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right,
13 title and interest in and to the '716 patent. A true and correct copy of the '716 patent is attached as
14 Exhibit E to this complaint.

15 37. Eclipse is informed and believes, and thereupon alleges, that Provide Commerce: (1)
16 has infringed and continues to infringe claims of the '716 patent, literally and/or under the doctrine of
17 equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or
18 infringement under the doctrine of equivalents of claims of the '716 patent, and/or has actively
19 induced and continues to actively induce others to infringe claims of the '716 patent, literally and/or
20 under the doctrine of equivalents, in this district and elsewhere in the United States.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff Eclipse asks this Court to enter judgment against Provide
23 Commerce and against each of the its respective subsidiaries, affiliates, agents, servants, employees
24 and all persons in active concert or participation with it, granting the following relief:

25 (a) An award of damages adequate to compensate Eclipse for the infringement that has
26 occurred, together with prejudgment interest from the date infringement of the Eclipse Patents began;

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1 (b) An award to Eclipse of all remedies available under 35 U.S.C. §§ 284 and 285,
2 including enhanced damages up to and including trebling of Eclipse's damages for Provide
3 Commerce's willful infringement, and reasonable attorneys' fees and costs; and

4 (c) Such other and further relief as this Court or a jury may deem proper and just.

5 **JURY DEMAND**

6 Eclipse demands a trial by jury on all issues so triable pursuant to Federal Rule of Civil
7 Procedure 38.

8 Respectfully submitted this 5th day of September, 2012

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10 NEWPORT TRIAL GROUP

11
12 By: /s/Tyler J. Woods

13 Tyler J. Woods
14 Attorney for Plaintiff
15 ECLIPSE IP LLC
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